

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NATURAL RESOURCES DEFENSE
COUNCIL, INC.,

Plaintiff,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Defendant.

16 Civ. 3660 (AT)

**STIPULATION AND ORDER OF
SETTLEMENT AND DISMISSAL**

WHEREAS plaintiff Natural Resources Defense Council (“NRDC”) filed this suit in the United States District Court for the Southern District of New York pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, seeking the release of certain records by defendant United States Environmental Protection Agency (“EPA”), in connection with an earlier administrative request for the same records (the “FOIA request”);

WHEREAS EPA released certain records to NRDC in response to the FOIA request;

IT IS HEREBY STIPULATED AND AGREED, by and between the parties, as follows:

1. The documents produced by EPA fully resolve any and all claims NRDC now has or may hereafter acquire against EPA or the United States of America (“United States”), or any department, agency, officer, or employee of EPA and/or the United States, for the release of records arising from NRDC’s FOIA request at issue in this action.

2. After the Court has approved and docketed this Stipulation and Order, within a reasonable period of time, EPA shall pay to NRDC via electronic funds transfer the sum of EIGHT THOUSAND DOLLARS AND ZERO CENTS (\$8,000.00) in attorneys’ fees and litigation costs, pursuant to 5 U.S.C. § 552(a)(4)(E), which sum NRDC agrees to accept in

complete satisfaction of any and all claims by NRDC for attorneys' fees, expenses, costs, interest, and any other sums related to this litigation. Counsel for NRDC will provide the necessary information for EPA to effectuate the electronic funds transfer.

3. This action is hereby dismissed with prejudice, and without costs or fees other than as provided in paragraph 2 of this Stipulation and Order, provided that the Court shall retain jurisdiction for the purpose of enforcing this Stipulation and Order.

4. This Stipulation and Order shall not constitute an admission of liability or fault on the part of EPA or the United States or their agents, servants, or employees, and is entered into by both parties for the sole purpose of compromising disputed claims and avoiding the expenses and risks of further litigation.

5. The parties agree that this Stipulation and Order will not be used as evidence or otherwise in any pending or future civil or administrative action against EPA, the United States, or any agency or instrumentality of the United States.

6. The parties understand and agree that this Stipulation and Order contains the entire agreement between them, and that no statements, representations, promises, agreements, or negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of any force or effect.

7. Any obligation of the Government to expend funds under this Stipulation is subject to the availability of appropriations in accordance with the Anti-Deficiency Act, 31 U.S.C. § 1341. This Stipulation shall not be construed to require the Government to obligate or pay funds in contravention of the Anti-Deficiency Act.

8. Counsel for EPA will be filing this Stipulation and Order via the ECF system on behalf of both parties. Pursuant to Rule 8.5(b) of the Electronic Case Filing Rules & Instructions

of the U.S. District Court for the Southern District of New York, counsel for NRDC consents to the electronic filing of this Stipulation and Order by counsel for EPA.

Dated: New York, New York
November 5, 2020

/s/ Margaret T. Hsieh
NANCY S. MARKS
MARGARET T. HSIEH
Natural Resources Defense Council
40 West 20th Street, 11th Floor
New York, New York 10011
(212) 727-4414
nmarks@nrdc.org
msieh@nrdc.org
Attorney for Plaintiff NRDC

Dated: New York, New York
November 5, 2020

AUDREY STRAUSS
Acting United States Attorney
Attorney for Defendant EPA

By: /s/ Natasha W. Teleanu
TOMOKO ONOZAWA
NATASHA W. TELEANU
Assistant United States Attorneys
86 Chambers St., 3rd Floor
New York, New York 10007
(212) 637-/27212528
tomoko.onozawa@usdoj.gov
natasha.teleanu@usdoj.gov

SO ORDERED:

THE HONORABLE ANALISA TORRES
UNITED STATES DISTRICT JUDGE